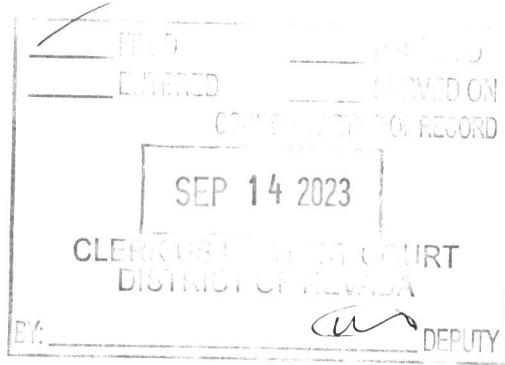


John Junior Ard
3708 Alderwood Drive
North Las Vegas, Nevada 89032
702-401-5119
Magsrt82006@yahoo.com



John Junior Ard
Plaintiff, In Proper Person

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

John Junior Ard,
Plaintiff(s)/Petitioner(s),

vs.

Dan Chaney, SERVICEMAC LLC.
American West Lending Service ESSEX
MORTGAGE

Defendant(s)/Respondent(s).

Case No.: 2:23-cv-01315-JAD-DJA

Dept No.:

Re: Motion to Dismiss Non-Judicial Foreclosure Action by ESSEX MORTGAGE et al.

I am submitting this Motion to Dismiss on behalf of the Plaintiff, John Junior Ard, in the Non-Judicial Foreclosure action initiated by ESSEX MORTGAGE et al., as detailed in the above-mentioned case. This motion is grounded in the unequivocal facts surrounding a payment tendered by the Plaintiff, which, by all legal standards, should have rendered the Non-Judicial Foreclosure action moot and without basis.

Introduction

This motion centers around the events that transpired following the receipt of a Reinstatement or Make Good Deficiency bill/Delinquent Notice/Statement from ESSEX MORTGAGE on August 14, 2023 Showing the amount due of \$320,800.96. Despite being immersed in the ongoing wrongful foreclosure case initiated by John Junior Ard, the Plaintiff, acting in good faith, promptly responded to the bill by tendering full payment as specified on the August 9, 2023 bill.

Factual Background

On August 14, 2023, I received a bill for full payment from the Defendant, ESSEX MORTGAGE. Recognizing the critical nature of this bill and its potential implications for the pending legal proceedings, I promptly responded by tendering full payment. This payment was made in good faith, with the sincere intention of satisfying the outstanding debt and preventing further escalation of the wrongful foreclosure case.

The payment was sent through the United States Postal Service (USPS) and was accompanied by a return receipt to provide documented proof of timely payment. Records, receipts, and relevant correspondence all substantiate the completeness and timeliness of this payment.

Crucially, the payment I tendered adhered to all requirements specified in the bill and strictly followed the payment terms set forth by the Defendant, ESSEX MORTGAGE.

Despite the fact that I have complied with the bill's terms and conditions and have met all obligations associated with the payment, I have received no acknowledgment, confirmation, or communication from the Defendant, ESSEX MORTGAGE, regarding the receipt and processing of the payment.

Legal Argument

The Tender of Full Payment

The Plaintiff full payment was made in accordance with the terms and conditions specified in the August 9, 2023 bill. This payment, sent through USPS with a return receipt, was made in a timely manner and in good faith. The Plaintiff possesses well-documented proof of this payment, including records, receipts, and relevant correspondence.

The Legal Precedent

The legal precedent in cases such as *Savitch v. Swbyp* No. 02-04-257-CV (Tex. App. Aug. 4, 2005), *Williams Cattle Co. v. Gus Juengling & Son, Inc.* 667 N.E.2d 469 (Ohio Ct. App. 1995), and *GDE Constr., Inc. v. Leavitt* 294 P.3d 567 (Utah Ct. App. 2012) emphasizes that a promissory note or full payment, when accepted by the payee, constitutes full payment and satisfaction of the underlying debt. In our case, the plaintiff tendered full payment as per the bill's terms, and the Plaintiff rightfully expected the Non-Judicial Foreclosure Action to be rendered moot and without legal basis.

Lack of Acknowledgment or Communication

Crucially, despite the timely and complete payment, the Plaintiff has received no acknowledgment, confirmation, or communication from Defendant ESSEX MORTGAGE regarding the receipt and processing of the payment. The absence of any response or communication raises questions about the legitimacy of the Non-Judicial Foreclosure Action.

Conclusion

In light of the well-established legal precedent and the undeniable facts surrounding the Plaintiff's timely and complete payment, ESSEX MORTGAGE's Non-Judicial Foreclosure Action should be deemed moot and without legal basis. The Plaintiff fulfilled all requirements as specified in the bill, and the legal doctrine dictates that the Non-Judicial Foreclosure action should be halted.

Pursuant to well-established legal precedent and the doctrine of mootness, I respectfully request the court to dismiss the Non-Judicial Foreclosure action with prejudice. The tender of full payment has obviated the need for further legal action in this matter, and justice and equity demand that this litigation be terminated promptly.

Respectfully Submitted


John H.
Enclosure: Supporting Documents,

EXHIBIT A

Essex Mortgage
2100 SE 17th Street #112
Ocala FL 34471
(888)892-0881
Toll: (888)892-0881

August 09, 2023

Delinquent Notice

Loan #:	1700001943
Principal Due:	9,445.76
Interest Due:	17,683.20
Tax and Insurance Due:	6,461.41
Misc Insurance Due:	.00
* Total Late Charges Due:	1,425.45
Other Fees and Charges Due:	285,785.14
Less Subsidy Amount:	.00
Total Amount Due:	\$ 320,800.96
Total Fees/Charges Paid/Waived:	.00

JOHN JUNIOR ARD
3708 ALDERWOOD DR
NORTH LAS VEGAS NV 89032

Property Address:
3708 ALDERWOOD DR
North Las Vegas NV 89032

Important Information

Number of Payments Due 19
Due Date of Next Payment 02/01/22

ESSEX MORTGAGE ("Essex") IS CONSIDERED TO BE A DEBT COLLECTOR UNDER CERTAIN STATE AND FEDERAL LAWS. ACCORDINGLY, FOR THE PURPOSE OF SUCH LAWS, THIS COMMUNICATION IS FROM A DEBT COLLECTOR AND IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THIS PURPOSE. TO THE EXTENT YOUR ORIGINAL OBLIGATION HAS BEEN DISCHARGED OR IS SUBJECT TO AN AUTOMATIC STAY UNDER THE U.S. BANKRUPTCY CODE, THIS NOTICE IS FOR COMPLIANCE AND/OR INFORMATIONAL PURPOSES ONLY AND DOES NOT CONSTITUTE A DEMAND FOR PAYMENT OR AN ATTEMPT TO IMPOSE PERSONAL LIABILITY FOR SUCH OBLIGATION.

Please detach and return this portion with your payment.

August 09, 2023

Essex Mortgage
2100 SE 17th Street #112
Ocala FL 34471
(888)892-0881
Toll: (888)892-0881

Loan Number:	1700001943
Due Date of Next Payment	02/01/22
Number of Payments Due	19
Total Now Due:	\$ 320,800.96

How do you want to respond?

Check all that apply:

- I want to dispute the debt because I think:
 - This is not my debt.
 - The amount is wrong.
 - Other (please describe on reverse or attach additional information.)
- I want you to send me the name and address of the original creditor.
- I enclosed this amount: \$ _____

Please make check payable to:
Essex Mortgage

JOHN JUNIOR ARD
3708 ALDERWOOD DR
NORTH LAS VEGAS NV 89032

August 09, 2023

Delinquent Notice Disclosures

Your loan has been transferred to Essex. Essex is the creditor to who the debt is owed. Essex is responsible for collecting your monthly loan payments. At the time Essex received your loan and began servicing it, the debt was in default and thirty (30) days or more delinquent.

You have the right to dispute the validity of the debt. Unless you notify us within thirty (30) days after receiving this notice that you dispute the validity of this debt or any portion thereof, we will consider the debt valid. If you notify us in writing that you dispute the validity of this debt or any portion thereof, we will obtain verification of the debt or obtain a copy of a judgement and mail you a copy of such verification of judgment. Upon your written request we will provide you with the name and address of the original creditor, if the original creditor is different from the current creditor.

Additional information regarding consumer protections in debt collection is available on the Bureau's website at www.cfpb.gov/debt-collection.

Quiero este formulario en español.

If you have questions about any of the items contained in this notice, or need any additional information, please contact Essex Mortgage at (888) 892-0881, Monday through Friday from 9:00-am – 7:00pm (EST).

EXHIBIT B

August 19, 2023

ESSEX MORTGAGE
2100 SE 17th Street #112
Ocala FL 34471

Re: Affidavit of Acceptance to Offer for \$320,800.96 (Account Number: 1700001943)

Dear ESSEX MORTGAGE,

I am writing to accept your offer dated 09th day of August 2023 of \$320,800.96 for account number 1700001943. I understand that the mailbox rule applies to this offer, which means that my acceptance is effective when I mail this letter, even if you do not receive it until later.

Sincerely,
John Junior Ard

The mailbox rule is a common law rule that states that an offer is accepted when the acceptance is placed in the mail, even if the offeror does not receive it until later. This rule applies to all forms of communication, including mail, email, and fax.

There are a few exceptions to the mailbox rule. One exception is if the offeror specifies a different method of acceptance, such as requiring the acceptance to be sent by certified mail. Another exception is if the offeror sends a revocation of the offer before the acceptance is received.

I am confident that this matter will be resolved promptly and to my satisfaction. Thank you again for your offer.

Sincerely,
John Junior Ard

Signature

STATE OF NEVADA

COUNTY OF CLARK

Sworn (or affirmed) and subscribed before me on the 19th day of August (year) 2023
by John Junior Ard.

Certified Mail# 70201810000136437137

Signature of Notary Republic State of Nevada



Print, Type, or Stamp Commissioned Name of Notary Public ANNJANETTE MOORE

Identification Produced ✓

Nv ID card Nv License

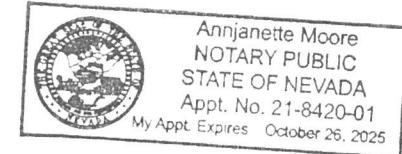


EXHIBIT C

a promissory note/uncitral convention international bill of exchange, a security/government obligations as defined in the statute, (see the march 9, 1933 congressional act and section 18 paragraph 6 of the federal reserve act respecting securities and government obligations).

to: whom-ever it may concern

by operation of statute, i am not permitted and/or allowed to utilize federal reserve notes ("federal reserve notes... for the purpose of making advances to federal reserve banks through the federal reserve agents as hereinafter set forth and for no other purpose, are authorized." 12 USC 411), i am neither a federal reserve bank or an agent for the federal reserve, and thus i am not authorized to use federal reserve notes or the so-called "cash-method" is presumed, and thus i permit the march 9, 1933 act of congress, the congressional record associated with that act, the amendment to the federal reserve act as incorporated in the aforementioned acts at section iv and presidential proclamation 2039. by operation of law and decree of the executive branch of government, i am a "banking institution", and as such am authorized to utilize the currency as stipulated in the aforementioned acts and/or newly created law. the instruments i have been authorized to utilize as "one of the people in the nation" are any notes, drafts, bills of exchange, bankers acceptance, trade acceptance, and or bonds". each of these under the aforementioned acts are constituted securities that are to be deposited with the federal reserve and/or the federal reserve agent. it is not discretionary, under the common "money creation theory/doctrine" the banks utilize this as a means for securing deposits in their depository institutions as prescribed in law. i have attached a copy of these laws which operate as evidence of what the law is, and is conclusively unrefutable as defined in law (the congressional record is the intent of congress, 'the statutes at large', is that intent via enactment, and the presidential proclamation acknowledged by congress is the two thirds majority of government solidifying the aforementioned into law of the nation. these laws have not been repealed!

payor: JOHN JUNIOR ARD, a banking institution*
iboe-56235-bry-5634YREHDYERH35432

3708 Alderwood Drive
North Las Vegas, Nevada[89032]

**federal reserve act section 401 security, bill of exchange, legal tender
a united state government obligations, as authorized by statute!***

8/17/2023

\$ 320,800.96 xxxx

pay to the order

of: ESSEX MORTGAGE #1700001943.without recourse (payee)
(immediately or upon demand) an international bill of exchange uncitral convention, payor is a foreign state

amount tendered: three hundred twenty thousand eight hundred in lawful credits and .96/000

disclaimer and official notification:

"as used in this order the term "banking institutions" shall include all ... banks ... or persons, engaged in the business of receiving deposits, making loans, ... or transacting any other form of banking business. (reliance on section 401 of the national banking emergency act, and the amendment to the federal reserve act section 18 paragraph 6, and the congressional record for march 9, 1933 along with the intentions of congress granting the treasury supreme authority to seize all of the gold in the country from individuals, companies and corporations.). title iv: sec. 401. the sixth paragraph of section 18 of the federal reserve act is amended to read as follows: "upon the deposit with the treasurer of the united states (a) of any direct obligations of the united states or (b) of any notes, drafts, bills of exchange, or bankers' acceptances acquired under the provisions of this act, any federal reserve bank making such deposit in the manner prescribed by the secretary of the treasury shall be entitled to receive from the comptroller of the currency ... notes shall be equal to the face value of the direct obligations of the united states so deposited as security; and, when issued against the security of notes, drafts, bills of exchange, and bankers' acceptances acquired under the provisions of this act, the amount thereof shall be equal to not more than 90 percent of the estimated value of such notes, drafts, bills of exchange, and bankers' acceptances so deposited as security. such notes shall be the obligations of the federal reserve bank procuring the same, shall be in form prescribed by the secretary of the treasury, shall be receivable at par in all parts of the united states for the same purposes as are national-bank notes, and shall be redeemable in lawful money of the united states on presentation at the united states treasury or at the bank of issue..." "value of such notes, drafts, bills of exchange, and bankers' acceptances so deposited as security. Such notes shall be the obligations of the Federal Reserve bank procuring the same, shall be in form prescribed by the Secretary of the Treasury, shall be receivable at par in all parts of the United States for the same purposes as are national-bank notes, and shall be redeemable in lawful money of the United States on presentation at the United States Treasury or at the bank of issue."

financial banking institution federal government access account number: 438-21-8332
property acquisition serial number: APN 139-07-710-041
property location: North Las Vegas, Nevada


John Junior Ard
certification/authorization/ALL RIGHTS RESERVED

the following is an absurd from the congressional record of march 9, 1933 whereby we note the intent of congress respecting the new law and the ongoing banking holiday, "...it is difficult under the circumstances to discuss this bill. the first section of the bill, as i grasped it, is practically

a promissory note/uncitral convention international bill of exchange, a security/government obligations as defined in the statute, (see the march 9, 1933 congressional act and section 18 paragraph 6 of the federal reserve act respecting securities and government obligations).

the war powers that were given back in 1917, with some slight amendments. the other gives supreme authority to the secretary of the treasury of the united states to impound all the gold in the united states in the hands of individuals...

i refer to section 401, which reads: upon deposit with the treasurer of the united states of all contract obligations of the united states, or any notes--

and so forth.

under the federal reserve act obligations that are deposited as the security and gold for reserve notes are placed in the hands of the federal reserve agent. i would like to ask the chairman of the committee if this is a plan to change the holding of the security back of federal reserve notes to the treasury of the united states rather than the federal reserve agent.

mr. steagall. this provision is for the issuance of federal reserve bank notes; not for federal reserve notes; and the security back of it is the obligations, notes, drafts, bills of exchange, bank acceptances, outlined in the section to which the gentleman has referred.

mr. mcfadden. then the new circulation is to be federal reserve bank notes and not federal reserve notes? is that true?

mr. steagall. insofar as the provisions of this section are concerned, yes..."

"under the federal reserve act obligations that are deposited as the security and gold for reserve notes are placed in the hands of the federal reserve agent..." this is one such obligation, and this deposit is being placed with an agent of the federal reserve and/or the federal reserve bank in compliance with a reliance upon the federal reserve act section 401, subsection 18 paragraph 6.

this deposit is time sensitive as it specifically deals with the payor's necessities of life (see: the may 12, 1933 cong. rec., associated and/or reference stat. at large as to the intent of congress).

please note that any refusal of this lawful tender, constituting legal tender as defined in the statute shall equate to a breach of the agreement between the parties respecting the new deal, and will lead to the immediate forfeiture of the seized gold as documented by the cong. rec. constituting a government obligation respecting the agreement between the parties, the people in the nation of which i am a member of the united states government to include the financial institutions acting as agents and/or officers of the united states respecting such transacting of government business.

i am the original issue or of this international uncitral convention bill of exchange. this bill of exchange is in compliance with the international requirement, and as the act of congress, the federal reserve act and or its subsequent amendments amounts to "commercial business," it is presumed that the united states congress was operating in a different capacity, this purpose foreign transactions, see the intent of the trading with the enemy act for clarification.

please receive this amended format and the amended procedure as permitted in law for sui juris, pauper's, as cognizable in law.

to receive payment, you must follow the statute as written,³ this matter is not open for debate, should you refuse tender, the debt shall be deemed discharged, and as the original lender, so-to-speak,

³ "we must follow the statute as written. see *meggs*, 950 s.w.2d at 610 ("[w]hen the legislative intent is apparent from the words used and no ambiguity exists, there is no room for construction.")."
addison v. director of revenue, 302 s.w.3d 735, 738 n.2 (mo. ct. app. 2010)

"... therefore constrains this court to impose a seemingly double penalty. we must follow the statute as written. see *meggs*, 950 s.w.2d at 610 ("[w]hen the legislative intent is apparent from the words used and no ambiguity exists, there is no room for construction.")."

courts are bound to follow statutes and must apply them as written. the primary goal of statutory interpretation is to give effect to the intent of the legislature. *stanton v. city of battle creek* , 466 mich. 611, 615, 647 n.w.2d 508 (2002). if the language of a statute is unambiguous, the intent of the legislature is clear and the statute must be enforced as written. *kemp v. farm bureau gen. ins. co. of mich.* , 500 mich. 245, 252, 901 n.w.2d 534 (2017).

a promissory note/uncitral convention international bill of exchange, a security/government obligations as defined in the statute, (see the march 9, 1933 congressional act and section 18 paragraph 6 of the federal reserve act respecting securities and government obligations).

"the trustor-mortagor or the person who alleges that a debt has been paid has the burden of proving payment." (id. at p. 440, quoting 4 miller & starr, cal. real estate, (3d ed. 2000) deeds of trust and mortgages, § 10:71, p. 217, fn. omitted.) "[o]n adequate proof that payment has been properly made or tendered, the debt is satisfied and the lien is extinguished. if the lien has been extinguished, there can be no foreclosure sale. (lichty v. whitney (1947) 30 cal.app.2d 696, 702 [valid tender released security; subsequent trustee's sale was void]; cf. bisno v. sax (1959) 175 cal.app.2d 714, 724 [accepting payment of amount in default precluded foreclosure].) o'ferrall v. srp 2012-4, llc, no. e071762, at *11-12 (cal. ct. app. sep. 4, 2020).

in compliance with and in line with the intent of the statute, this promissory note is tendered as a security, and such a security deposit is an acceptable form of tender as therein defined, constituting satisfaction in accord. deposit shall be made according to the terms of the act to either the united states department of the treasury and or any federal reserve bank and or any member bank of the federal reserve i.e. federal reserve agent in compliance with the regulations provided for by the sec. of the treasury as defined in statute.

i have personally tendered this payment satisfying the obligations of the obligor, the obligee must now follow the procedures and policies outlined within the confines of the statute, following it as written in order to receive the benefits of such tender as defined in statute.

please note that it is not my job and/or my intent to convince you and/or your organization of "what the law is" that's what the statute at large is for. that it is not my duty to explain banking to you, what is however, a duty and/or obligation on your part to deposit this with the federal reserve agent and/or member bank and/or banking association with whom you have an account for proper disposition and handling. if you and/or your bank should fail to process in accordance with the law, you would be committing by appearance banking fraud in that you would be portending that the obligation has not been paid and/or tendered as prescribed in law and agreed upon by the parties.

this item is presented utilizing the accrual method of accounting, please adjust your records reflecting the same as agreed upon by the parties. as noted above only financial institutions are authorized to utilize the cash method via federal reserve notes, this item is presented as specified herein.

signature/according noted above is the authorization for the obligation, the signature noted below shall constitute certification of intent and shall be payable immediately and/or upon demand as defined in law. the private address noted above does not and/or does include a zip code⁴ signifying a military zone, and all are cognizant that the military is a foreign to the united states jurisdiction entity thus creating international requirements of the to and from foreign states requirement under international law.

authorize signature: John Junior Ard
ALL RIGHTS RESERVED

"individuals should not be liable for damages for acting pursuant to a statute later declared invalid. "Citizens and public officials have a right to accept the law as it is written until it is repealed or judicially condemned. They are not required to speculate upon the validity of a statute or to act under it at their peril." Downs v. Jacobs, 272 A.2d 706, 707 (Del. 1970).

⁴ military addresses must contain the apo or fpo designation along with a two-character "state" abbreviation of ae, ap, or aa and the zip code or zip+4 code. ae is used for armed forces in europe, the middle east, africa, and canada; ap is for the pacific; and aa is the americas excluding canada.

"The United States Statutes at Large" shall be legal evidence of laws,...in all the court of the United States, the several States, and the Territories...of the United States'

Question: Is it constitutional to require the lawyers acting for the defense, prosecution, or adjudication in a criminal or civil proceeding in this State of the United States to execute the oath in "An Act to regulate the Time and Manner of administering certain Oaths" required of all United States or several States executive and judicial officers, and for them to have a record or certificate as proof before they proceed to execute the duties of their respective offices?

X:  DATE: 8-22-2023

Printed Name: John J. Arnold

Address Line1: 3768 Alderwood Drive

Address Line 2: North Las Vegas Nevada

Phone: 702 401 5116

EXHIBIT D



MEADOW MESA
4904 CAMINO AL NORTE
NORTH LAS VEGAS, NV 89031-9998
(800)275-8777

08/19/2023 01:37 PM

Product	Qty	Unit Price	Price
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First-Class Mail® Large Envelope	1	\$1.59	
Ocala, FL 34471			
Weight: 0 lb 1.50 oz			
Estimated Delivery Date			
Thu 08/24/2023			
Certified Mail®		\$4.35	
Tracking #:			
70201810000136437137			
Return Receipt		\$3.55	
Tracking #:			
9590 9402 7785 2152 0272 33			
Total		\$9.49	

Grand Total:	\$9.49
--------------	--------

Debit Card Remit	\$9.49
Card Name: VISA	
Account #: XXXXXXXXXX5598	
Approval #: 045525	
Transaction #: 110	
Receipt #: 056083	
Debit Card Purchase: \$9.49	
AID: A0000000980840	Chip
AL: US DEBIT	
PIN: Verified	

Text your tracking number to 28777 (2USPS) to get the latest status. Standard Message and Data rates may apply. You may also visit www.usps.com USPS Tracking or call 1-800-222-1811.

In a hurry? Self-service kiosks offer quick and easy check-out. Any Retail Associate can show you how.

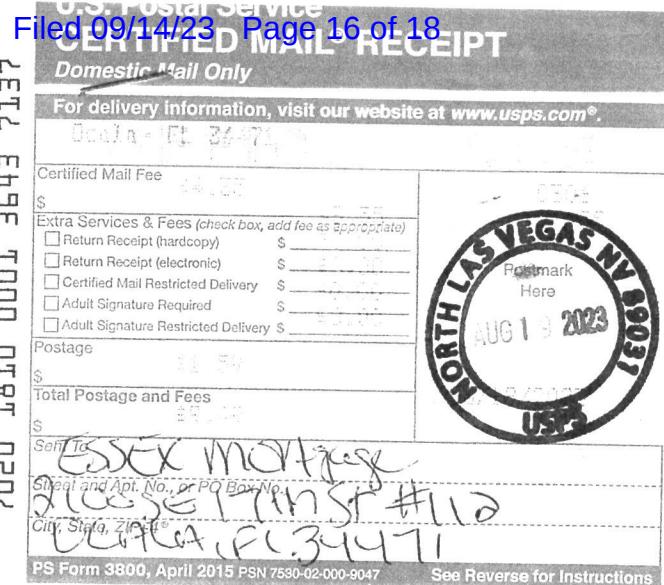
Preview your Mail
Track your Packages
Sign up for FREE @
<https://informeddelivery.usps.com>

All sales final on stamp and postage.
Refunds guaranteed on sales only.
Taxes not included for your business.

Tell us about your experience.
Go to: <https://postalexperience.com> or scan this code with your mobile device.



or call 1-800-410-7420.



See Reverse for Instructions

USPS Tracking®

[FAQs >](#)

Tracking Number:

[Remove X](#)

70201810000136437137

[Copy](#)

[Add to Informed Delivery \(https://informeddelivery.usps.com/\)](https://informeddelivery.usps.com/)

Latest Update

Your item was delivered to the front desk, reception area, or mail room at 10:58 am on August 24, 2023 in OCALA, FL 34471.

Get More Out of USPS Tracking:

[USPS Tracking Plus®](#)

Feedback

Delivered

Delivered, Front Desk/Reception/Mail Room

OCALA, FL 34471

August 24, 2023, 10:58 am

Departed USPS Regional Destination Facility

JACKSONVILLE FL DISTRIBUTION CENTER

August 23, 2023, 7:33 pm

Arrived at USPS Regional Destination Facility

JACKSONVILLE FL DISTRIBUTION CENTER

August 22, 2023, 3:43 pm

In Transit to Next Facility

August 21, 2023

Arrived at USPS Regional Origin Facility

LAS VEGAS NV DISTRIBUTION CENTER

August 19, 2023, 10:38 pm

USPS in possession of item

NORTH LAS VEGAS, NV 89031
August 19, 2023, 1:35 pm

[Hide Tracking History](#)

What Do USPS Tracking Statuses Mean? (<https://faq.usps.com/s/article/Where-is-my-package>)

Text & Email Updates 

USPS Tracking Plus® 

Product Information 

[See Less !\[\]\(70fe8e9535b25b843243cca42ea05eeb_img.jpg\)](#)

Track Another Package

Enter tracking or barcode numbers

Need More Help?

Contact USPS Tracking support for further assistance.

[FAQs](#)